

REMARKS

In the final office action dated May 15, 2007, claims 1 – 12, 14, 16, 20 – 29, 34 – 35, and 37 – 40 have been rejected under 35 U.S.C. § 102(e), as allegedly being anticipated by Zimmerman et al. (U.S. Patent No. 6,876,975). Claims 13 and 15 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Zimmerman et al. in view of Blinn et al. (U.S. Pat. No. 6,058,383). Claims 17 – 19, 30 – 33, and 36 have been rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over Zimmerman et al. The rejections are respectfully traversed.

The Examiner alleges that Zimmerman teaches the claimed invention, including “[a]t least one dynamic calculator for making modifications to the price to be paid by the customer for the at least one item based upon conditional rules.” Office Action at 3. Applicants respectfully disagree.

Zimmerman discloses systems and methods for handling *alternate information* on electronic price labels. *See* Col. 1, ll. 6-9. Electronic price labels are “typically attached to a rail along the leading edge of the shelves” and “typically are used by retailers to display limited information such as a regular retail price and a price per unit.” Col. 1, ll. 15-16 and ll. 23-25. “Depending on the retail environment, it may be particularly desirable to display *alternate information*.” Col. 1, ll. 27-29.

Zimmerman discloses several types of *alternate information*, such as “the amount of value added tax (VAT), a ‘frequent shopper’ discounted price, or other promotional information applicable to a certain merchandise item.” Col. 1, ll. 29-32. The *alternate information* may “be determined utilizing a looking table or an algorithm or an instruction to perform a calculation to determine the alternate message.” Col. 2, ll. 35-38. Specifically, the patent describes two types of calculations: a value added tax amount and a frequent shopper discount. *See* Col. 3, ll. 35-39 and Col. 4, ll. 44-49. When computing the value added tax, the systems “may have to read a VAT table and calculate the amount of VAT based on the price of the item.” Col. 3, ll. 35-39. When computing the frequent shopper discount, the system may determine the frequent shopper discount and subtract this from the retail price, or apply a discount percentage to the retail price. *See* Col. 4, ll. 44-49. These calculations are merely the application of a static rule stating the amount to be added (VAT) or subtracted (frequent shopper) from the retail price.

Zimmerman does not teach the use of static and *dynamic calculators based upon conditional rules* for making price calculations to determine the amount to be paid by the consumer for an item, as recited in all of Applicants' independent claims. For example, Applicants' claim 1 recites:

A computer system for dynamic pricing of at least one item comprising:

at least one static calculator for making modifications to the price to be paid by the customer for the at least one item that are not conditional; and

at least *one dynamic calculator for making modifications to the price* to be paid by the customer for the at least one item *based upon conditional rules*. (emphasis added)

That is, Applicants' invention modifies the price to be paid by the customer for at least one item based on conditional rules, not merely the application of a fixed amount found in a static lookup table.

Specifically, the Applicants' disclosure makes it clear that

“each dynamic calculator is made up of a qualifier and a discount calculator. The qualifier applies rules to determine if an item is qualified to receive a discount. The rules for qualification generally comprise *a condition that must be satisfied*.”

Specification at 2 (emphasis added).

For example, a conditional rule may require a ten percent discount to be applied to blue shirts when the customer has purchased more than four items. *See* specification at 7. In other words, the selection of a fifth item satisfies the condition, at which point the ten percent discount is applied to blue shirts. *See* specification at 7 – 8.

In contrast, static calculations are “calculations that are not conditioned on anything.” Specification at 4. “For example, sale prices of items are static calculations because they apply regardless of the conditions under which the order is placed.” *Id.*

Zimmerman teaches static calculations. Zimmerman does not teach the use of dynamic calculators based upon conditional rules for making price calculations to determine the amount to be paid by the consumer for an item.

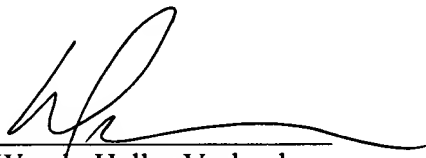
Based upon the foregoing discussion, applicants respectfully submit that the independent claims of this application are not anticipated or rendered obvious by Zimmerman. The dependent claims are also not anticipated or rendered obvious for the same reason.

Applicants submit that this application is in condition for allowance and request expedited notification of such allowance.

The Director is hereby authorized to charge any payments that may be due in connection with this reply to Wilmer Cutler Pickering Hale and Dorr LLP Deposit Account No. 08-0219.

Respectfully submitted,

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